G. R. S. IX-5]

Previous references.

Courts.
~~Kenya~~
1976.
(~~Yearly~~)

2.7

File No. 2-76.

Serial Nos. 1 - 10

Later references.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos 1 - 10.

Mayor ~~Part~~ B for November 74

SUBJECT.

Certain laws relating to previous hunt

No 102 1877

From

To The Judicial Commr

Section
File No 9 / 65
Serial No 1

Dated Allahabad 2nd Feby 1877.

Despatched

Received

Enclosures No. 2

General No. 1837
J No. 130

I forward herewith copy & translation of letter No. 380 dated 10th Feby 1877 from the Govt of India, Home Dept. with its Enclosure, and request that a Collection of the decisions passed under Section 304A of the Indian Penal Code by Courts and Appellate Criminal Courts in Mysore and Coorg since the passing of Act XXVII of 1876, may be submitted to this Office, with the Judicial Commr's opinion on the amendment suggested by the Chief Commr of the Central Provinces.

12 Feb 1877

20/2/77

To be placed in File.

O. or M. 133

No. 3
300

Date 10-2-77

From
Home

or

To
filed
1-11-81

MYSORE CHIEF COMMISSIONER'S OFFICE

Bangalore, 24th March 1877

No. 13089/142

2

To Jud. Commr.

SIR,

*Subject.

Collection of decisions passed under Section 304 A of the Indian Penal Code, by lower & Appellate Criminal Courts, since the passing of Act XXVII of 1876

I am directed to invite attention to the communication *marginally noted, and to request an early reply thereto.

No. 11837/130 dated 21 Feby 77.

~~Subsequent reminder No~~ ~~dated~~

I have the honor to be

Sir,

Your most obedient Servant,

for Secretary.

21/3/77.

MYSORE CHIEF COMMISSIONER'S OFFICE,

Bangalore, 20th June 1877.
despd. " " "

No. 2879 ✓
9 25

Section
File No 2-76
Serial No 8

To The Jud. Commr.

SIR,

*Subject.

correction of decisions passed under Section 304 A of the Indian Penal Code by Lower and Appellate Criminal Courts since the passing of Act XXVII of 1870.

I am directed to invite attention to the communication *marginally noted. and to request an early reply thereto.

No. 1137/130 dated 21 Feby 77
Subsequent reminder No. 1308/142 dated 24 March 1877

I have the honor to be
Sir,
Your most obedient Servant,

Secretary.

10/6/77
20/6/77

80

Mysore Judl. Commissioner's Office.
Bangalore 23rd July 1897.

From,

J. D. Gordon Esqr. I.C.S.
Judicial Commissioner
of Mysore.

To,

The Secretary to the
Chief Commissioner
of Mysore

Sir,

I have the honor to forward, as requested in your docket No. 1183/97 dated 21st February 1897, a collection of decisions passed by the lower and Appellate Courts of the Mysore Province under Section 304 A Indian Penal Code, since the passing of Act XXVII of 1870. The Superintendent of Coorg has not yet submitted the cases decided in Coorg and they will be forwarded as soon as they are received —.

2. With regard to the new section which the Chief Commissioner of the Central Provinces proposes to add to the Code, it is, in my opinion, well calculated

to,

to supply a defect in the present law of manslaughter in India, and will, if adopted, provide for a large number of cases which Judges now, both against law and good sense, as observed by the Chief Commissioners, bring under other sections of the Code quite inapplicable to them.

3. There can also be no question that through want of a section similar to the one suggested by the Chief Commissioners, and through misapprehension of the scope of Section 304, A, Criminals in many cases go inadequately punished.

4. Some of the decisions herewith submitted will go to illustrate how seriously the provisions of Section 304, A may be misunderstood, although in no case in this province has there resulted such a gross miscarriage of justice from such misapprehension, as in some of the cases quoted by the Chief Commissioners.

5. In case No. 41 of 1894 on the file of the Assistant Commissioner of Chikkanaikenhally Sub Division, and in case No. 37 of 1891 on the file of the Cudpah Assistant Superintendent, Mysore, and also in case No. 25 of 1893 on the file of the Magistrate in charge of the Kunigal Sub Division

Division, (although the facts of the case have not been clearly found by the Magistrate) we have prominent instances of misapprehension of Section 304, A of the Code—. These cases clearly come under culpable homicide, and it is doubtful if the offence in case No. 34 of 1891. does not even amount to murder—.

6. Sessions Case No. 1 of August 1892 on the file of the Sessions Judge of Nandidroog is clearly not a case coming under Section 304, A, and in this Office proceedings No. 1102-161 dated 18th August 1894, it was pointed out to the Sessions Judge of Ashtagram that Section 304, A was quite inapplicable to a case he had brought under that Section—.

7. In cases tried in the Nagar Division and in a few cases in the other Divisions under Section 304, A, there does not appear to have been much mis-apprehension of law—.

8. It will thus be seen that Section 304, A, in a large number of cases has not been rightly understood, and in my opinion, a few illustrations appended to this Section will make its scope clear

and

and prevent misinterpretation —

9. There is no section in the Penal Code which provides for cases where a man causes death by an act done with intent to cause injury, although he had neither the intention to cause death, nor to cause bodily injury likely to cause death, nor knowledge that he was likely to cause death —. The addition proposed by the Chief Commissioner will meet cases of this nature, and will thereby make the law of homicide in India complete and comprehensive —.

I have the honor to be
Sir
Your Most Obedt. Servant,

J. D. Jordan
Jud. Commissioner.

a.g.g

A/15

1877 78 69.

From The Judicial Commissioner in Mysore

To Secretary to Chief Commissioner, General Department.

Dated 23rd July 1877.

Despatched 26

Received 26

ENCLOSURES NO 1

General No. 912 / No. 80 } 1877 —78.

As requested in his No 1837/130 dated 21st February 1877. forwards a collection of decisions passed by the lower and appellate Courts of this Province under Section 304 A Indian Penal Code since the passing of Act XXVII of 1870.

Copy of the Rid Commr letter, and its enclosure to Bijapur Kaladgi Dharwar Kanara

WH 7

Approved, the above may be accompanied by an expression of my opinion being in full accordance with that of the Judl Commr

28.7.77 WH

Draft-entered No 305

26/4

To be placed in File. 8

O. or M. 16

No. 4362/18

Date 31-7-77

From Home

or

To filed 1-11-87

Section 16

File No. 1 2 76

Serial No. S

Bangalore 9th August 187

No 331/19 of 9 August/77

To.

The Secy: to the Govt of India
Home Dept
Simla

Sir,

In continuation of my letter No 4362/18 of 31st July last ~~from the Mysore Chief Commrs office, I am directed to forward the accompanying statement received from the Judicial Commissioner, containing~~ a collection of the decisions passed by the Lower and Appellate Courts in Mysore under section 304 A of the Indian Penal Code, since the passing of Act XXVII of 1870, [illegible] Travancore &c

× the terms of the Act
× Chief Commr desires to forward
for submission a Statement
~~Further~~ Similar to those
for this Country pursuance of

PLR. 8/8 Copy PLR. 9/8 Secretary

Cong

1877. Simla 331/19

10 L/P&J 52.

From

To The Secretary to the Govt of India, Home Deptt Simla

Dated 9th August 77

Despatched 10 "

Received 11 " 10 — do

Enclosures No. one

General No. 331

No. 19

In continuation of this office letter No 4362/18 dated 31st July 1877, forwards a statement furnishing similar information as the one forwarded in the above.

Russian office letter

2 Q

Trans Cas Corr Vol 12 1880-1882

File No. 1/3/70

Serial No. 7

No. 12 980-92

Extract from the Proceedings of the Government of India, in the Home, Revenue and Agricultural Department (Judicial),—under date Simla, the 2nd September 1879.

READ again the undermentioned papers on the subject of the present state of the law relating to hurt, grievous hurt, and homicide :—

Letter from Chief Commissioner, Central Provinces, No. 4265-201, dated 13th November 1876.

Home Department Circular to all Local Governments and Administrations and to the High Court, Calcutta, Nos. 3—293-302, dated 10th February 1877.

Read also the following replies to the Circular of 10th Feberuary 1877 :—

From Government of Madras, No. 2045, dated 28th August 1877.
" " Bombay, No. 6402, dated 18th October 1877.
" " Bengal, No. 4921, dated 31st December 1877.
" " the North-Western Provinces and Oudh, No. 1203A., dated 25th September 1877.
" " the Punjab, No. 2649, dated 21st July 1879.
From Chief Commissioner, Central Provinces, No. 1745-85, dated 9th May 1877.
" " British Burmah, No. 1137-141, dated 5th September 1877.
" " Assam, No. 1717, dated 4th July 1877.
" " Mysore and Coorg, Nos. 4362—J-18 and 331—19, dated 31st July 1877 and 9th August 1877, respectively.
" Resident at Hyderabad, No. 3-B., dated 4th April 1877.
" Registrar, High Court, Calcutta, No. 175, dated 25th April 1877.

RESOLUTION.

IN November 1876, the Chief Commissioner of the Central Provinces represented to the Government of India that Section 304 A* of the Indian Penal Code, as amended by Act XXVII of 1870, was misunderstood or misapplied by the judicial officers of those Provinces. He cited instances in which persons who, in his opinion, ought to have been convicted of murder or culpable homicide not amounting to murder, or of grievous hurt, were sentenced by Magistrates, without having been committed to the Court of Sessions, or were sentenced by Sessions Judges to inadequate punishments under Section 304A, quoted above. The most striking of those cases was one in which a policeman, convicted of having tortured a suspected man to death, was sentenced by the Sessions Judge to two years' imprisonment under Section 304 A. The Chief Commissioner expressed an opinion that the law was defective, or was misunderstood in the Central Provinces, especially in cases in which death is caused, not by a rash or negligent act, but by an unlawful act intended to cause hurt or grievous hurt, although death was neither intended nor likely to result. The Chief Commissioner suggested that the following Section should be substituted for Section 304 A, namely :—" whoever causes the death of any person by doing any act not amounting to culpable homicide, which, if it had caused hurt or grievous hurt, would have rendered him liable to punishment under any of the sections of the Code from 323 to 335 inclusive, shall be punished as provided in the particular section under which his offence would, but for the death of the injured person, have fallen."

* "Whoever causes the death of any person by doing any rash or negligent act not amounting to culpable homicide, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both."

2. The representation of the Chief Commissioner was circulated to all Local Governments and Administrations for opinion. And request was made that the Government of India might be furnished with a collection of the

decisions passed under Section 304A of the Indian Penal Code by the Lower and Appellate Criminal Courts in the several Provinces since the passing of Act XXVII of 1870.

3. The replies received may be summed up thus:—

4. *Madras.*—The Government of Madras forward minutes recorded by the Honourable Mr. Justice Innes and the Honourable Mr. Justice Kindersley. Mr. Justice Innes thinks that the "hurt" and "grievous hurt" sections of the Code sufficiently cover the cases cited by the Chief Commissioner; but, as Section 304A is not unfrequently misapplied by the Subordinate Courts, he would offer no objection to the proposed amendment. Mr. Justice Kindersley, on the other hand, is of opinion that the Penal Code is sufficient to cover every case, and that any amendment would raise further doubts. He therefore deprecates any such amendment. No opinion is expressed by the Madras Government.

5. *Bombay.*—The Bombay Government agree with the Honourable the Chief Justice and the Judges of the Local High Court, who have expressed a very clear opinion in the matter. The communication from the High Court explains that, though there was some diversity of opinion as to the working of Section 304A when first embodied in the Code, the law may now be said to be settled by the authority of recent decisions of the High Court in that Presidency, to the effect that Section 304A of the Indian Penal Code does not apply to cases in which there has been an intention to cause bodily injury, and that, where there has been such an intention, and the offence does not amount to culpable homicide, the person by whom death has been caused should be punished either for causing hurt or for causing grievous hurt, according as his intention and the nature of the injuries inflicted bring the case within the definition of one or the other offence. The Honourable the Chief Justice and Judges state that the above view seems to be in accordance with the spirit of the Penal Code, and consider that, as the law is clear, it is unnecessary either to amend or explain it. If, however, the different High Courts and Judical Commissioners are in accord as to the meaning of the section as above explained, they suggest that the matter be left to those authorities to see that the existing law is properly applied.

6. *Bengal.*—The report from the High Court, Calcutta, deals only with cases adjudicated by the original side of the Court. The High Court advise that the amendment proposed by the Chief Commissioner be not introduced into the Law. His Honour the Lieutenant-Governor, in submitting the opinions of several District Judges and Magistrates, some of whom advocate a change in the law, states his opinion that no necessity exists for alteration in the Code.

7. *North-Western Provinces and Oudh.*—The Government of the North-Western Provinces and Oudh submit a letter from the Allahabad High Court, which shows that the Honourable Mr. Justice Turner is not in favour of the proposed amendment, inasmuch as it does no more than express the law as it stands; but he considers that the law as expressed in Sections 304 and 304A of the Indian Penal Code might be made more clear. The Honourable Mr. Justice Pearson concurs in this opinion; and the Honourable Mr. Justice Spankie thinks the law defective. All the three Judges consider that any case of the kind in which death ensues ought to be committed to the Court of Sessions. In the opinion of the Local Government special legislative interposition is unnecessary; but His Honour the Lieutenant-Governor suggests that a ruling should be issued by the High Court, expounding the proper meaning to be attached to Section 304A, a direction being embodied in such ruling, that all cases which result in death should be committed to the Sessions Court.

8. *Punjab.*—The Punjab Government forward opinions of several district officers, and observe that mistakes are often made in respect of the application of Section 304 A. His Honour the Lieutenant-Governor is of opinion that an amendment of the law as proposed is not needed, but that an explanatory circular or ruling by the High Courts pointing out the intention of that section will meet the requirements of the case. The Punjab Chief Court has, it is stated, been already invited by His Honour to supply this need.

9. *British Burma.*—The Chief Commissioner thinks that the mistakes committed in regard to Section 304A are due mainly to the inexperience of the officers entrusted with the trial of the cases under notice, and that no necessity exists for any change in the law. But the Chief Commissioner suggests that in all established cases of homicide, whatever be the nature of the offence, the lower Courts should be bound to commit to the Court of Sessions. The Judicial Commissioner is also of opinion that the mistakes are due to a misunderstanding of the law.

10. *Assam.*—The Chief Commissioner considers that considerable doubt and uncertainty exist in regard to the precise interpretation of the existing law; and he suggests that such doubts ought to be cleared up either by the proposed amendment, or in such other way as may be thought proper.

11. *Mysore and Coorg.*—The Chief Commissioner agrees with the Judicial Commissioner in opinion that the proposed amendment will supply an acknowledged want.

12. *Hyderabad.*—The Resident expresses himself in favour of the proposed amendment.

13. It will be seen from the above summary that the preponderance of opinion is opposed to any amendment of the Law as suggested by the Chief Commissioner of the Central Provinces. The difficulties and the mistakes pointed out by the Chief Commissioner are, it would appear, mainly attributable to a misapplication of the Law, rather than to any defect in the Law as it at present stands. Under these circumstances, any amendment in the direction indicated appears unnecessary; and the Governor General in Council considers that it may safely be left to the highest judicial authorities of the several Provinces to lay down such rulings as may be needed for the guidance of the subordinate Courts, in the event of there being any further tendency on the part of such Courts to misapply the provisions of Section 304A in cases which may come before them. It would be for the consideration of those Courts whether they should direct committal to the Sessions in every case, or in any class of cases, where death may result from the rash act or the grievous hurt with which an accused may be charged.

ORDER—Ordered, that this Resolution be forwarded to all Local Governments and Administrations, and to the High Court, Calcutta, and the Legislative Department for information.

(True Extract)

C. Bernard

Offg. Secretary to the Govt. of India.

To The Chief Commissioner of Coorg.

Govt. Central Branch Press, Simla.—No. 379, H., R. & A. D.—30-8-79—267.

I
H. 122

1879 Coorg 4-1

From

The Offg: Secretary to the Govt: of India
Home, Rev: & Agri
Deptt

Dated Simla 2nd September 1879

Rec'd 18th "

No. 12 Encls. 4. Sh. C.

98-982.

This office No. 331-19 dtd 9-8-77

Forwards for information
Resolution on the subject
of the present state of
the law relating to hurt,
grievous hurt, & homicide

Guide to Justice Commissioner Coorg

Copy to Medical (Coorg)

3 spare copies to the J.C.

Coorg

14/9/79.

Sent 19/9.

Medical copy sent to Dr. Cowie's office.

Progress Report for the week ending 7th September 1879.

Jemadar Sobbannachetty

Crime No. 358 of 1879 — Robbery Sec: 392 I.P.C.

Wastara Do.

The Judicial Assistant Commissioner & 1st Class Magistrate ordered the case to be struck off the file

Sub. Insp. Chatterton

Crime No. 387 of 1879 — Housebreaking Sec: 457 I.P.C.

Shingeri Do.

The General Assistant Commissioner & 2nd Class Magistrate ordered the case to be transferred to the undetected file

Jemadar Mustahodeen

Crime No. 8 of 1879 — Cul: Homicide Sec: 304 I.P.C.

Hoppa Zacob.

One Nootehma was accused of having beat his wife Ayathbee who died the next morning by vomiting.

Jemadar Mustahodeen proceeded to the spot, held an inquest and sent on the body to Chickmaglur for Post mortem examination. The Jemadar examined 5 witnesses. They said that they knew not how the deceased

The Chemical examiner certified that death resulted from poison. The accused's house was searched but nothing suspicious was found. The witnesses also deposed that they saw no poison or any medicine with the deceased but the sister of the deceased said that the accused gave his wife butter milk to drink & some time afterwards the vomitting commenced & she died. The accused was examined. He admitted having beat his wife with a small bamboo pipe for some mistake but stated that she died of Cholera the next day. From all enquiries made there being great suspicion on the accused, he was arrested & an A Sheet submitted on the Medical evidence & that of the statement of the sister of the deceased

The

Commissioned & 2nd Class Magistrate however discharged the accused under Sec: 195 C.P.C. as there was no evidence against him of having poisoned his wife or of having beaten her in a manner to cause her death –

Insr. Loobrew & Inspr. D'Vaz.

Crime No. 493 of 1879
Security Sec: 395 I.P.C.
Chikanna against Zalookie

The Munsiff & 2nd Class Magistrate of Chickmoglur Division tried the 4 accused placed before him for enquiry & committed them to the Court of Sessions, where they were all convicted & sentenced each to 2 years rigorous imprisonment & a fine of Rupees 30/- & in default to suffer 1 years additional rigorous imprisonment under Sec: 395 I.P.C.

Inspr. Mirza Wahid

Crime No. 509 of 1879
Murder Sec: 302 I.P.C.
Tenkanna Zalookie

The Inspector proceeded to the spot immediately he received information. He found

found Busvy lying dead
in a Cholum field near
Chinnapoora & Maria in
a precarious condition.
Immediate steps for relieving
him from the exhausted
state he was in, were
taken. After some Kanji
& water were given him,
he was able to speak with
great difficulty. Busvy's
body was examined. Foul
play was suspected. a
Punchayets Inahazar was
drawn & the body sent on
to the Municipal for Post Mortem
examination. Maria gave
out the following statement
after some relief given him -
That on the night of the
31st July 1879. at about 7
P.M. when there was moonlight
he & his concubine Busvy
were coming to Chinnapoor
from Berood & on the
way near Wuddi Kattahalla
1/2 a mile from Chinnapoor they
were accosted by 1 Koorbar
Doogga, 2 Thimma, 3 Dani Kencha,
4 Chickanna Nanooma & 5 Thimma

ed them that he was the
son of Koolwady Basva,
a Madigar of Chinnapoora
he & Basvy were attacked
by all of the 5 accused
who are all related to the
latter & ill-treated by
kicks & blows which
caused Basvy's death
& him to faint.

The Inspector examined
4 witnesses. From their
evidence & other enquiry
the case was proved against
4 of the accused except
the 5th Dam Rucha.
The 2nd, 3rd & 4th accused
confessed their guilt. all
the 4 were however arrested
& put before the Magistrate
with a charge sheet under
Secs: 302 & 323 I. P. C.

The Medical officer who
examined the body of Basvy
certified "I am of opinion
that death was the result
of inflammation of the
Lungs"

The Judicial Assistant

Com[r]

Insp. Saroop Ram.

Crime No. 564 Beroot Murder Case Sec: 302 of I.P.C.

Banaras Cantt.

Commissioner of Police Magistrate discharged the 1st, 2nd, & 3rd accused under Sec: 195 Cr.P.C. & Convicted & Sentenced the 4th accused Shiunath to 2 months Rigorous imprisonment under Sec: 323 I.P.C. —

Inspector examined the body of the deceased together with a Punchayat and drew a Inahazar & forwarded the corpse to Chowkaghat Hospl. for Post-Mortem Examination The Medical Officer Certified that the death was caused by Haemorrhage resulting from the rupture of the Spleen. Inspector examined ten witnesses for Prosecution.

Three of them including the Complainant speak to the fact of the deceased being kicked to death by the accused & the rest depose that the deceased was suffering from illness for nearly a fortnight before his death & died a natural death on the date the offence is said to have been committed from

Illness of his mother keeping
Sweeten. The Inspector is
engaged in finding out the
real facts in the case.

Macey.

Deputy Commissioner
Kadur District

B.7

List of Cases pending during the week ending 7th
September 1879

Regd No.	Date, locality and offence	No. of times repd	Remarks
396	27/5/79. Basawanally Kidnapping 369 I.P.C. Chickmoglur Town	10	Undetected
486	23/6/79. Basalode Murder 302 I.P.C. Wastara Division	6	Do.
504	24/7/79. Near Booksagar Kadur road Dacoity 395 I.P.C. Kadur Do.	5	Do.
500	23/7/79. Hosmanally Dacoity 395 I.P.C. Banawar Division	5	Do.
521	10/8/79. Santermoky Dacoity 397 I.P.C. Chickmoglur	4	Do.
526	3 months ago. Koondoor Kidnapping 366 I.P.C. Wastara Division	4	Do.
546	23/8/79. Mootmapoora Dacoity 395 I.P.C. Mudgeri Division	2	Do.
547	23/8/79. Settegeri Robbery 392 I.P.C. Chickmoglur Division	2	Do.
550	" Yadahally Robbery 392 I.P.C. Kuchwally Division	1	Do.
560	" Banoor Hurt 324 I.P.C. Wastara Division	1	Do.

Kadur District

Abstract of Progress made in Serious offences as per Reports received during the week ending 7th inst.

Regd. No. of the year	Date, Locality & Nature of Offence	No. of Offence Com.d	No. of persons Arrested	Value of Property Lost	No. of persons arrested: No. detained in Custody: Already reported	No. detained in Custody: Since last report	No. rel.d on bail: Already reported	No. rel.d on bail: Since last report	No. of premises searched: Already reported	No. of premises searched: Since last report	Value of property recovered: Already reported	Value of property recovered: Since last report	No. of Cases	Nature in which Cases stand
1	2	3	4	5	6				7		8		9	10
358	18-3-79. Mayode Robbery Sec: 392 IPC. Wastara Dr.	6	1	.	.	.	.	.	.	.	.	.	12	B
387	Not known. House breaking Sec: 457 IPC. Shringeri Dr.	1	.	1194/-	.	.	.	.	.	.	.	.	12	P.
8	27-12-78. Cul: Hom: Sec: 304 IPC Basavanahalli Koppa taluq	1	Killed 1	.	.	.	.	.	.	.	.	.	12	A
493	21-7-79. Robbery Sec: 392 IPC. Halige Kallanahally Thickanasalme Dr.	5	2	100/-	.	4	.	.	.	2	.	.	7	A
509	31-5-79. Murder Sec: 302 IPC. Hennagara. Addl Sessions Dr.	5	Killed 1	.	.	4	.	.	.	.	.	.	6	A.
564	30-8-79. Murder 302 IPC Beroor. Kadur Dr.	3	1	.	.	.	.	1	.	.	.	.	1	.

The Govt resolution was only sent to CC Coorg I see. & no copy from Foreign to Mysore & moreover it only suggests that High Cts may order Subl. Cts to communicate to Govt all cases where death has resulted

The Res.n was sent to J.C of Coorg but he will I presume conclude that as J.C. of Mysore he is quite at liberty to ignore the instructions of Cts in Mysore. I have noticed more two cases like this lately where Magistrates have tried when death has resulted & if anymore occurit would be well to invite J.C's attention to the growth of that class of case

21/10

1879.

From The Deputy Commissioner
Hardoi District

To

Secretary to Chief Commissioner,
Police General Department.

Dated 17
Despatched 18th September
Received 20

Enclosures No. 1

General No.
Police No. 493 } 1879—7.

Forwards Progress & Report of heinous Offences for the week ending 17th September 1879.

Submitted
Colvin
15/10

Noted
15/10

Which has nothing to do with the case. What I mean was a resolution of the Govt of India on a proposal made some 2 yrs ago by the CC Central provinces cf. S&O 21 A IPC should be amended.

The papers were received quite recently in the Govt Dept.

Apply to Mr Ambrose

WJC 7-10

This which is sent was in the Correspondence of 1877. re Sheik Ittar &c. &c. of the East Indian Railway Quite recently received in the Govt Dept. Mr Ambrose see in 17.10.79

Noted
WJC 9/10

Yes I have perused the papers referred to in the subject of amending S 120 A. I think it should be ordered that magistrates should be warned to commit such cases for trial in all cases when they consider that the evidence is sufficient to warrant a conviction.

Recorded in

From

To The Judicial Commissioner
of Mysore

Dated Camp Mysore 25th October
Despatched 27th
Received

Enclosures No.

General No. 5604
No. 101

Section
File No. 2-76
Serial No. 4

Endorsement No. 112/D 46 dated
19th Sept.r 79 from Secty to CC
Coorg to J.C. Coorg forwarding
copies of resolution of Govt in
the H R & A Dept No. 12/980-92
d 2nd Sept.r

With reference to the above
resolution intimates that
the J.C. of Mysore is at liberty
to act upon the suggestion
contained in para 13 as
regards Cts of Magrs in
Mysore & direct them,
if he thinks proper, to commit
to the Sessions in every case
where death may result from
the rash act or the grievous
hurt with which the accused
may be charged

The fact that in some ~~two~~ instances lately Magts have tried & disposed of such cases suggests to the CC that some instructions may be desirable.

By order

WJC

22/10

No. 320

Bangalore

7th November 1879.

From

F. D. Landford Esqre

Judicial Commissioner

of Mysore

Section
File No.
Serial No.
2-76.
10

To

The General Secretary to the

Chief Commissioner

of Mysore

Sir,

With reference to your No. 5604/101 of the 25th Ultimo, I have the honor to state that I would prefer not to issue any general order directing as an invariable rule, the committal of all cases in which death has resulted — from rash act or grievous hurt to the Court of Sessions

The

2. The law has entrusted a discretion with the Magistrates to deal with such cases themselves, and I think it better that my Court, as a Court of revision, should deal with any particular case which may be brought to my notice in which the Magistrate has exercised that discretion improperly, rather than that I should ipsue any general rule on the subject.

I have the honor to be

Sir,

Your Most Obedient Servant

W Daniel

Judicial Commissioner

d/b

The J. C. appears to think the issue of general instructions undesirable this need not be pressed, but it will be well to send to him for information every case in which from his report it seems desirable that he should see the papers.

HG
25/11

From The Jud. Commissioner of Mysore

To Secretary to Chief Commissioner, General Department.

Dated 7th
Despatched 14th November 1879
Received 14th

Enclosures No.

General No. 2778 } 187 —7
No. 320 }

Referring to his No. 3604/101 of the 23rd Ultimo, states that he would prefer not to issue any General order directing as an invariable rule the committal of all cases in which death has resulted from rash act or grievous hurt to the Court of Session.

Submitted Here may be no fear but that the J.C as a Court of Revision will set right any case which is brought to his notice, in which a Magte has exercised his discretion improperly, but there may be at the same time danger of such cases not being brought to his notice
MC 16/11 ds

Note in Police Dept extract from prog. regd. referring cases where death has resulted from violence & the Magte discretion & the matter as a hurt case or rash act (288A) will be sent to J.C for inspn
HG
25/11

Letter to J.C
Dt 26/11/79